

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Under the provisions of 37 CFR 41.33(b), claims 2-5 have each been rewritten in independent form to include the subject matter of base claim 1 and claims 1 and 6-9 have been cancelled.

Claims 2 and 3 stand rejected, under 35 USC §103(a), as being unpatentable over Lee in view of Dutta and Gwon (US 2003/0016655). Claims 4 and 5 stand rejected, under 35 USC §103(a), as being unpatentable over Lee in view of Dutta, Gwon, and Linder et al. (US 2002/0194385). The Applicants respectfully traverse these rejections as follows.

Claim 2 defines a mobile terminal apparatus that binds a home address of a first interface, (HoA1), with a home address of a second interface, (HoA2), when the mobile terminal is in a domain where HoA2 is available, and binds HoA1 with a care-of address of the second interface, (CoA2), when the mobile terminal is in a domain where HoA2 is not available. The claimed subject supports the ability of a mobile terminal to maintain communication with a network by temporarily borrowing one of addresses assigned to a second network interface when communication through the address of a first network interface is disrupted, such as when the mobile terminal is experiencing a base station handoff (see original specification page 20, third paragraph).

The Examiner's Answer proposes that Lee discloses the above-mentioned subject matter of claim 2 in Fig. 7, column 9, lines 57-65, and column 11, lines 48-61 (see Examiner's Answer, paragraph bridging pages 6 and 7).

However, Lee discloses in column 9, lines 57-65, that a home agent: (1) updates its binding record and sends a registration reply to a mobile unit when the home agent accepts a registration request received from the mobile unit; (2) sends a registration reply to the mobile unit specifying a reason for denial when denying the registration request; and (3) sends a registration reply to the mobile unit's home subnet in response to a deregistration request (see Lee col. 9, lines 57-65). Lee's disclosed items (1)-(3) are not the same as, or similar to, the Appellants' claimed subject matter of a mobile terminal apparatus that binds HoA1 with HoA2, when the mobile terminal is in a domain where HoA2 is available, and binds HoA1 with CoA2, when the mobile terminal is in a domain where HoA2 is not available. More specifically, Lee does not disclose, in the material cited by the Examiner's Answer, that the mobile unit binds any addresses, as does the Appellants' claimed mobile terminal. And even if Lee's home agent could be construed as corresponding to the claimed mobile terminal, rather than Lee's mobile unit, Lee does not disclose, in column 9, lines 57-65, that the home agent performs the above-mentioned types of conditional address binding recited in claim 2.

In Fig. 7 and column 11, lines 48-61, Lee discloses a registration process 400 executed by an access point (AP) (see Lee col. 11, lines 48-49). According to this method, the AP repeatedly checks 402 whether it has received a registration reply packet from a home agent. Upon receipt of the registration reply packet, the AP checks 404 whether it is acting as a foreign agent and, if not, the AP's process loops back to the operation of repeatedly checking 402 whether it has received a registration reply packet from a home agent. If the AP is acting as a foreign agent, a reference to a mobile unit is added 406 to the AP's foreign agent table and the registration reply is relayed 408 to the mobile unit.

However, Lee's disclosure -- of an AP that adds a mobile unit reference to a foreign agent table, in response to receiving a registration reply packet, and then relays the registration reply to the mobile terminal -- is not the same as, or similar to, the Appellants' claimed subject matter of a mobile terminal apparatus that binds HoA1 with HoA2, when the mobile terminal is in a domain where HoA2 is available, and binds HoA1 with CoA2, when the mobile terminal is in a domain where HoA2 is not available. More specifically, Lee's AP is not a mobile terminal apparatus, as is the Appellants' claimed subject matter. And even if Lee's AP could be construed as a mobile terminal apparatus, Lee does not disclose, within the material cited in the Examiner's Answer, that the AP performs the above-mentioned types of conditional binding recited in claim 2.

Dutta and Gwon are not cited in the Examiner's Answer for supplementing the teachings of Lee with respect to the above-mentioned subject matter distinguishing claim 2 from Lee's disclosure.

Accordingly, the Appellants submit that Lee, Dutta and Gwon, considered individually or in combination, do not render obvious the subject matter defined by claim 2. Independent claims 3-5 similarly recite the above-mentioned subject matter distinguishing claim 2 from the applied references, and Linder is not cited in the Examiner's Answer for supplementing the teachings of Lee, Dutta, and Gwon with respect to this subject matter. Therefore, allowance of claims 2-5 is warranted.

The Appellants note that the Examiner's Answer, Advisory Action, and Final Rejection each fail to provide any findings of fact (i.e., evidence) as to how Lee discloses the above-mentioned subject matter of claims 2-5. Instead, the Office merely paraphrases the claimed subject matter and concludes that Lee discloses this subject matter in Fig. 7, column 9, lines 57-

65, and column 11, lines 48-61, without providing any evidence (not even one word) of how Lee's disclosure is similar to the claimed subject matter.

As stated in the MPEP, the Office must communicate its findings of fact and conclusions and articulate how the conclusions are supported by the findings of fact. See MPEP § 2144.08 (III), last sentence of first paragraph. Conclusory statements without evidentiary support do not constitute sufficient factual findings to support a claim rejection. See MPEP § 2144.08 (III), last sentence.

Accordingly, the Appellants submit that the Office has failed to establish a *prima facie* basis for the rejections of claims 2-5. Therefore, allowance of claims 2-5 is deemed to be warranted for this independent reason.

To promote a better understanding of the patentable distinctions of the claimed subject matter over the applied references, the Appellants provide the following additional remarks.

With the subject matter defined by claims 2-5, a second interface's home address, (HoA2), and a second home agent, (HA2), are set up in a second interface (IF2) of a terminal so that IF2 is capable of communication using HoA2 or a second care-of address, (CoA2). Consequently, with the claimed invention, upon binding IF2 with a home address of a first interface, (HoA1), additional processing of selecting between using HoA2 and CoA2 is required.

By contrast with this, Dutta fails to disclose setting up a home address and an HA for an IF2. Consequently, according to Dutta's disclosure, upon binding IF2 and HoA1, naturally and necessarily, the care-of address, (CoA), assigned to IF2 is used. Thus, Dutta fails to disclose the Appellants' claimed subject matter of a determining section that selects between using HoA2 and CoA2.

Furthermore, according to the Appellants' claimed invention, it is always possible to use HoA2 to bind IF2 and HoA1 (i.e., regardless of whether or not a terminal is present in a network where HoA2 is available). However, when a terminal, which is not present in a network where HoA2 is available, binds IF2 and HoA1 using HoA2, a problem arises that a packet for HoA1 is transmitted to the terminal via HA2, and, consequently, the communication path becomes long and inefficient. The Appellants' claimed invention solves this problem by selecting between using HoA2 and CoA2.

Also, according to the Appellants' claimed invention, a deciding section in a terminal decides whether or not a terminal is present in a network where HoA2 is available. By contrast with this feature, Lee discloses deciding, when an access point (AP) receives a message (i.e., a registration request), whether the AP is functioning as a home agent (HA) for the transmission source (i.e., mobile terminal) of the message or functioning as a foreign agent (FA) (see Lee FIG. 6 and col. 10, lines 35-65). Consequently, the subject of decision is different between Lee and the Appellants' claimed invention. More specifically, according to the Appellants' claimed invention, the subject of decision is a terminal, whereas, according to Lee, the subject of decision is an AP.

Assuming that a decision result as to whether an AP is functioning as an HA or functioning as an FA is reported to a terminal and the terminal decides whether or not the terminal is present in a network where HoA2 is available based on the report, the decision by the deciding section of the Appellants' claimed invention as to whether or not a terminal is present in a network where HoA2 is available needs to be made before the terminal transmits a registration request (BU) to an AP. Consequently, the result of the decision as to whether or not an AP is

functioning as an HA or functioning as an FA, which is made after the AP receives a message (registration request), cannot be used to decide whether or not a terminal is present in a network where HoA2 is available.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

/James Edward Ledbetter/

Date: July 13, 2009
JEL/DWW/att

James E. Ledbetter
Registration No. 28,732

Attorney Docket No. 009289-05196
Dickinson Wright PLLC
1875 Eye Street, NW, Suite 1200
Washington, DC 20006
Telephone: (202) 659-6966
Facsimile: (202) 659-1559